

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

TIMOTHY LEE ANDERSON.

Appellant

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DOCKET NUMBER WD73029

DATE: September 27, 2011

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Appeal From:

Circuit Court of Livingston County, MO  
The Honorable Jason Alfred Kanoy, Judge

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Appellate Judges:

Division Three  
James Edward Welsh, P.J., James M. Smart, Jr., and Joseph M. Ellis, JJ.

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Attorneys:

Kelly M. Jager, Clayton, MO

Counsel for Appellant,

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Attorneys:

Mary H. Moore, Jefferson City, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, Respondent, v. TIMOTHY LEE ANDERSON, Appellant**

**WD73029**

**Livingston County**

Before Division Three Judges: Welsh, P.J., Smart, and Ellis, JJ.

Timothy Lee Anderson appeals the circuit court's judgment convicting him of statutory sodomy in the first degree. Anderson contends that the circuit court erred when: (1) it overruled his motions for acquittal; (2) it allowed testimony from the victim's mother; (3) it granted the State's motion to exclude a defense witness, and (4) it barred the same defense witness for purposes of rebuttal.

**AFFIRMED.**

Division Three holds:

(1) The circuit court did not err in overruling Anderson's motion for acquittal at the close of all the evidence because the evidence was sufficient for a jury to find Anderson guilty of sodomy in the first degree.

(2) The circuit court did not err in allowing testimony from the victim's mother. The testimony was not improper bolstering as it was not solely duplicative or corroborative of the victim's testimony and Anderson failed to show that the testimony facially established substantial grounds for manifest injustice.

(3) The circuit court did not err in granting the State's motion to exclude Anderson's witness due to late endorsement. Anderson gave no reasonable justification for the late endorsement and he failed to demonstrate that fundamental unfairness resulted from the sanction.

(4) The circuit court did not err in barring a defense witness, first excluded from testifying in Anderson's case in chief due to late endorsement, from testifying as a "rebuttal witness." The witness was not a true rebuttal witness and the testimony the witness had to offer was cumulative.

Opinion by James Edward Welsh, Presiding Judge

September 27, 2011

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